



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of the Inspector General  
Board of Review

Jeffrey H. Coben, MD  
Interim Cabinet Secretary

Sheila Lee  
Interim Inspector General

May 16, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-1652

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Kristi Logan  
Certified State Hearing Officer  
Member, State Board of Review

Encl: Recourse to Hearing Decision  
Form IG-BR-29

cc: Kristen Moore, [REDACTED] DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW**

████████████████████,

**Appellant,**

v.

**Action Number: 23-BOR-1652**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████ ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on May 16, 2023, on an appeal filed April 29, 2023.

The matter before the Hearing Officer arises from the April 28, 2023, decision by the Respondent to deny the Appellant's application for Low Income Energy Assistance Program (LIEAP) benefits.

At the hearing, the Respondent appeared by Kristen Moore, Economic Service Worker. The Appellant was self-represented. The witnesses were placed under oath, and the following documents were admitted into evidence.

**Department's Exhibits:**

None

**Appellant's Exhibits:**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

## FINDINGS OF FACT

- 1) The Appellant applied for LIEAP benefits for electricity on April 27, 2023.
- 2) The Appellant reported using portable electric heaters as his primary source of heating.
- 3) The Respondent denied the Appellant's application as portable heaters are not considered a primary source of heating.

## APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 23 describes eligibility factors for LIEAP.

### **21.3.1.C.1 Vulnerable Assistance Groups**

Vulnerable assistance groups (AGs) are those which must pay the primary heating cost for the home in which they reside.

### **21.3.1.C.4 Portable Heaters**

Portable heating devices such as, but not limited to, electric and kerosene space heaters, are not considered primary sources of heating **except when an emergent life-threatening situation exists, the dwelling is totally without a heating source, and the AG has no alternate housing available** (emphasis added). It is considered dangerous to AG members and detrimental to program goals to heat a dwelling with space heaters. Such use must not be encouraged. Exceptions require supervisory approval.

## DISCUSSION

The Appellant applied for LIEAP benefits for electricity. The Respondent denied the Appellant's application because the use of portable heaters is prohibited by policy.

The Appellant testified that his mobile home does not have a furnace and it will cost approximately \$3,000 to have one installed. The Appellant stated electric space heaters are the only way he has of heating his home.

Policy allows the approval of LIEAP benefits if the dwelling is totally without a heating source and a life-threatening situation exists. The Appellant meets this exception in policy and therefore meets the eligibility criteria for the approval of LIEAP.

Whereas the Appellant's home is completely without a heating source and portable electric heaters are the Appellant's primary source of heat, the Respondent's decision to deny LIEAP benefits cannot be affirmed.

### **CONCLUSIONS OF LAW**

- 1) An applicant must be responsible for the cost of the household's primary heating cost to qualify for LIEAP.
- 2) The Appellant is responsible for paying his electric bill and heats his home using portable electric heaters.
- 3) Policy will allow the approval of LIEAP benefits for portable heaters if the home is without a source of heat.
- 4) The Appellant does not have an alternate source of heat for his home.
- 5) The Appellant meets the exception in policy for the approval of LIEAP for portable heaters.

### **DECISION**

It is the decision of the State Hearing Officer to **reverse** the decision of the Respondent to deny the Appellant's application for Low Income Energy Assistance Program benefits.

**ENTERED this 16<sup>th</sup> day of May 2023.**

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**Kristi Logan**  
**Certified State Hearing Officer**